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Summary record of the 2612nd meeting
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Chairperson: Mr. Iwasawa

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09-28011 (E)

The meeting was called to order at 10.20 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Sixth periodic report of Sweden (CCPR/C/SWE/6; CCPR/C/SWE/Q/6 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Sweden took places at the Committee table.*

2. **Mr. Ehrenkrona** (Sweden) said that the consistent promotion and protection of human rights was a cornerstone of Sweden's foreign policy. In particular, his Government had identified freedom of expression as a prerequisite for combating oppression, abuse of power and other human rights violations and was intensifying its efforts to combat censorship and unlawful limitations of the Internet.

3. The Government was committed to promotion of the rule of law in general and protection of civil and political rights. In that connection, counter-terrorism required increased efforts to protect human rights standards and to denounce all forms of torture, as absolute prohibition of which was reflected in several provisions of the Swedish Aliens Act.

4. The Government also attached high priority to the prevention of all forms of discrimination, particularly racism, xenophobia and Islamophobia, as one of the main objectives of the national action plan for human rights 2006-2009. The Delegation for Human Rights had been established to support the objectives of the action plan.

5. The new Discrimination Act, which had entered into force on 1 January 2009, had merged seven civil laws into a single instrument and the previous four ombudsmen against discrimination into a single authority. It had also introduced protection in areas not previously covered by legislation, such as age and gender identity, and established a general prohibition of discrimination against employees in the public sector.

6. While his Government had always regarded the Committee's Views as authoritative, it continued to hold the opinion that although Sweden was a State party to the Optional Protocol, the Committee was not equivalent to a court and its Views were not binding under international law. Draft General Comment No. 33 clearly signalled that the Committee regarded its Views as decisions of a judicial body; Sweden was concerned at such an attempt to extend the Committee's competence beyond the scope originally intended for it, which might necessitate a new ratification by Sweden.

7. Referring to the controversial new Signals Intelligence Act, he drew attention to paragraph 123 of the replies to the list of issues (CCPR/C/SWE/Q/6/Add.1) and noted that the Government planned to submit proposals that would incorporate into its legislation new provisions to protect privacy of individuals and clarify the purposes for which signals intelligence could be used.

8. Another controversial issue was the December 2001 expulsion from Sweden to Egypt of two Egyptian citizens, Mr. Ahmed Agiza and Mr. Mohammed Alzery. In that connection, he drew attention to paragraphs 8 to 10 of the replies to the list of issues. Under the Swedish Constitution, public prosecutors, the courts and administrative authorities dealing with individual cases operated independently from the Government, which was therefore not in a position to instruct or request the prosecuting authorities to institute proceedings. However, the authorities had a legal obligation to initiate a preliminary investigation where there was reason to believe that a criminal offence had been committed. Swedish public prosecutors at various levels had considered whether such an investigation should be opened in the aforementioned cases and had decided not to do so.

9. Sweden had not participated in any form of "extraordinary rendition". Nevertheless the expulsions, and particularly the actions of Swedish Security Police officials, had been criticized both by United Nations treaty bodies and by Swedish national institutions. In order to prevent similar violations in the future, a new procedure for security cases had been introduced in accordance with the Aliens Act and the Special Control Aliens Act. The Swedish Police Board had also issued guidelines on the execution of expulsion orders, which stipulated that aliens had a right to humane and dignified treatment with full respect for their human rights.

10. While expulsion orders could be enforced in cooperation with foreign authorities, the national authorities maintained superior command within Sweden; in the event of mistreatment of an alien by

representatives of a foreign authority, the Swedish police would abort the enforcement.

11. In accordance with the Aliens Act, if an international body competent to examine complaints from individuals found that a refusal-of-entry or expulsion order was contrary to a Swedish commitment under an international human rights convention, either the Migration Board or the Government must grant a residence permit to the person covered by the order unless there were exceptional grounds for not doing so, as in the case of persons excluded from international protection under the 1951 Geneva Convention relating to the Status of Refugees and persons guilty of very serious crimes.

12. Similarly, if such an international body requested Sweden to suspend enforcement of a refusal-of-entry or expulsion order, a stay of enforcement would be ordered unless there were exceptional grounds for not doing so.

13. A decision to detain a person under the Aliens Act was based on a case-by-case assessment of the merits. In that connection, the Government had appointed a special investigator to examine European Parliament and Council Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; a first report was to be submitted by the investigator on 15 June 2009. The Government had also appointed a commission to evaluate the Aliens Act, which would deliver its final report on 30 June 2009.

14. Progress towards the Government's long-term goal of full respect for human rights was an ongoing process. The forthcoming evaluation of Sweden's second national action plan for human rights would make an important contribution to that effort.

15. **The Chairperson** invited queries from the Committee on questions 1 to 16 of the list of issues (CCPR/C/SWE/Q/6).

16. **Ms. Wedgwood**, referring to question 1, urged the State party to consider withdrawing its reservation to article 10, paragraph 3, of the Covenant in view of the valid reasons for separating juvenile and adult offenders. Given that the current system in Sweden did not provide for such separation, she wondered whether any age restrictions applied to the sharing of cells.

17. She similarly urged the State party to consider withdrawing its reservation to article 14, paragraph 7. Cases where new information exculpated a person previously found guilty could be reopened in all legal systems since the rule against double jeopardy did not apply; however, she knew of no country except Sweden that allowed cases where the accused person had been acquitted to be reopened. The existence of such a possibility created a perverse incentive for the police not to complete its work.

18. Addressing the question of application of the Covenant by the Swedish courts (question 2), she questioned the statement, on page 3 of the replies to the list of issues, that the European Convention on Human Rights provided stronger protection than the Covenant. She wondered whether the Government had ever made a systematic study of the Committee's jurisprudence; in particular, there was nothing comparable to article 26 of the Covenant in the European Convention. The State party might usefully incorporate that article as a free-standing provision into its legal system and encourage judges to take it into account.

19. On the question of equal treatment for women (question 6), she asked whether the State party had considered additional measures to encourage more equitable representation of women in the higher tiers of education, whether universities allowed women to take time out during their childbearing years and whether they could work past the retirement age in cases where they had lost as much as 10 or 15 years of their careers because of childbearing.

20. Concerning violence against women (question 7), she inquired whether Sweden had made any effort to recruit police officers from among the ethnically diverse communities that they were required to serve. Information about any protection available to ensure that undocumented women victims of violence could seek help from the police would also be appreciated. She wondered why the courts could not issue restraining orders before, rather than after, an act of violence and what priority was given to such cases by the police. She invited comments on reports that only a small number of cities possessed shelters for battered women and that they relied for that purpose on underfunded non-governmental organizations (NGOs). It would be useful to know whether data collected on such violence had been broken down according to the ethnic background and legal status of the victims.

21. Moving on to question 8 (honour killings and female genital mutilation), she recommended the classification of such mutilation as a specific act of criminal assault since as with statutory rape, lack of consent could be presumed. It would also be interesting to learn whether data on the subject was collected from doctors and hospitals and whether any thought had been given to extending liability for honour killings to all those involved in the decision to commit the act, even if they did not participate in it. The Committee would welcome information on any ongoing measures taken by the schools and in foreign language broadcasts in order to wean people away from such archaic attitudes to chastity; on witness protection for those who reported such killings; and on any publicity given to the possibility of waiving the two-year marriage requirement for permanent residency of immigrant women who were victims of abuse.

22. Addressing the issue of early marriage (question 9), she noted that it was not a criminal offence in the country except in so far as it resulted from unlawful coercion, which was difficult to prove. It would be both morally instructive and a deterrent if the State party were to treat early marriage as a crime or misdemeanour. Lastly, with regard to the treatment of persons with disabilities (questions 10-11), she stressed that practical realities were at least as important as written law. The municipalities had responsibility for providing such persons with aid and ensuring the accessibility of workplaces, housing units and public facilities. She regretted the absence of any data in the sixth report on the degree of compliance with international disability requirements; the Committee would also be interested to know whether the Government provided financial incentives for the hiring of persons with disabilities.

23. **Sir Nigel Rodley**, referring to question 3 on the list of issues, said that in view of the active role played by Sweden in the international prohibition of torture and its constant opposition to all related practices, he had been surprised to learn of the deportation to Egypt of the two Egyptian citizens. The current Government's acknowledgment that Mr. Alzery's human rights had been violated, as reflected in its decision to repeal the decision taken by the previous Government, allayed any fear of the recurrence of such a measure, but there was still a need to review what had happened. If, as seemed to have been suggested, the deportation could be described as lawful, he wondered whether it had been considered so under national or international law. Information on measures taken to avoid any repetition would also be appreciated.

24. Referring to article 13 of the Covenant, he said that clarification would likewise be useful regarding the adjudication powers of the Migration Board under the new Aliens Act, particularly the extent to which the Board was able to act independently of the Government. In addition, he wondered whether the lessons learned from Mr. Alzery's case had been absorbed at the institutional level, especially in view of the unsatisfactory nature of the measures initially taken to monitor it following the recommendation made by the Committee in 2002. He reiterated the Committee's position that where there were substantial grounds for believing that torture might be used in a country, it was contrary to the Covenant to expel anyone to that country.

25. Taking up question 15, he said that while he was reassured by the written reply, fuller information would be appreciated about the action plan adopted to minimize the risk of disappearance of unaccompanied asylum-seeking children. It would also be interesting to know whether the persons reported to have been prosecuted for related trafficking had committed the offence before or after the adoption of the action plan and whether any new cases had arisen since then.

26. **Ms. Majodina** noted that the Government's reply to question 4 mentioned the new Office of the Ombudsman against Discrimination, which represented a merger of the previous anti-discrimination ombudsmen. She hoped that the Office's mandate would be defined as broadly as possible, as urged in the Paris Principles, so as to make it truly effective. It would also be useful to obtain more information on the planned activities of the Office, as well as on those of the Delegation for Human Rights, whose focus should include, but extend beyond, racism, xenophobia, ethnic discrimination and religious intolerance.

27. Turning to question 13 on the protection of persons with disabilities from abuse, she noted that there seemed to be no specific national programme to deal with such problems, for instance by protecting disabled women from violence, providing disabled victims with legal support and encouraging them to seek legal redress if their rights were violated. Although the social workers and caregivers had a legal obligation to report abuse, there seemed to be few such

cases in practice. She asked whether programmes existed to address abuse and, if so, whether persons with disabilities had participated in their development.

28. With regard to question 16 on education and the culture of tolerance, she requested more information on machinery to monitor discrimination and bullying in the schools. Various initiatives had been introduced in order to increase awareness of the problem and to combat discrimination; she wondered how effective those initiatives had been.

29. **Mr. Pérez Sánchez-Cerro** asked, in connection with question 5, how Sweden's relatively liberal asylum policies ensured that persons granted asylum had not been involved in terrorist activities in other countries. During visits to Sweden he had seen groups of young people, apparently refugees, selling literature, raising money and advocating the overthrow — usually by violent means — of other Governments, particularly in Latin American and Arab countries. The Swedish Government's tolerance for such activities was disturbing and seemed to run counter to its obligations under Security Council resolution 1373 (2001).

30. Turning to question 6 on gender mainstreaming and the equality of men and women in working life, he noted that the Constitution, the relevant legislation and the courts seemed to have set no standards on gender issues and made no mention of the Convention on the Elimination of All Forms of Discrimination against Women or of International Labour Organization (ILO) Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. There also seemed to be little legislation designed to prevent discrimination against foreign nationals in the workplace and discrimination based on political or social grounds.

31. Noting, with reference to question 12, that Sweden had apparently reduced its budgetary support for activities aimed at protecting persons with disabilities, he asked whether that decision would not weaken Sweden's capacity fully to implement ILO Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons).

32. **Mr. Amor** said that there was much to admire in the Swedish approach to human rights; the State party's continued reservation to article 20, paragraph 1, on the prohibition of propaganda for war was therefore baffling. The grounds for the reservation, described in paragraph 146 of the sixth report (CCPR/C/SWE/6), included the desire to protect freedom of expression and public debate and the difficulties in delimiting the punishable area. He urged the delegation to review the Committee's General Comment No. 11 on article 20, which dealt with those issues, and pointed out that paragraph 2 of the article, to which the State party had not objected, placed similar restrictions on freedom of expression. The validity of the reservation was further called into question by the fact that the prohibition of war propaganda was increasingly becoming an established principle of international law; it would be useful to review the Committee's General Comment No. 29 on article 4, especially paragraph 3 thereof, on the inadmissibility of prolonged derogation from article 4 rights.

33. **Mr. Fathalla** noted that paragraph 9 of the report, in the section dealing with article 1 issues, mentioned the formation of a boundary committee for land where reindeer husbandry rights existed and asked whether there were Sami representatives on that committee. Turning to paragraphs 25 and 26 of the report, concerning article 2, paragraph 2, of the Covenant, he asked how the Covenant meshed with domestic law and how what the report referred to as "treaty-compliant interpretation" operated. With regard to paragraph 61, relating to article 7, it would be useful to have a fuller explanation of how the drawbacks of establishing a special authority for internal investigations were thought to outweigh the benefits. Paragraph 91, which dealt with issues under article 10, paragraph 1, stated that prison staff had received training in preventing violence between prisoners; he wondered why such training had not been provided to prisoners as well.

34. **Ms. Chanet**, referring to question 1 on the list of issues, requested further information on the State party's reasons for maintaining its reservation to article 10, paragraph 3, of the Covenant. She would also appreciate clarification as to whether it was Sweden's reservation to article 14, paragraph 7, or the principle of non bis in idem contained therein, that had been invoked before the Supreme Administrative Court (mentioned in the reply to question 2). Clearly, the provision was not so restrictive that its principle could not be invoked before the courts. As for Sweden's reservation to article 20, paragraph 1, she conceded that it was difficult to determine what constituted propaganda for war and to take action against other States parties on that basis. However, the Committee

would soon draft a new general comment on article 19, which would address its implications for article 20. In any event, she failed to understand why the State party took issue with article 20, paragraph 1, but not with paragraph 2 of the same article.

35. States parties had perhaps exaggerated the potential impact of General Comment No. 33. While the Committee was not mandated to produce binding decisions, neither did it issue mere opinions. It was similar to an international judicial body in so far as it could be seized with a matter only when all domestic remedies had been exhausted. General Comment No. 33 simply sought to derive maximum effect from the Covenant and its Optional Protocol, which must be implemented in good faith by all States parties. The Committee exercised caution in examining communications; the fears aroused by General Comment No. 33 were therefore unfounded.

36. With regard to counter-terrorism legislation, Sweden had had little experience with terrorism within its borders; nevertheless, further details on the relevant procedures in place would be useful. In that connection, she wondered whether the conditions of detention and for the hiring of lawyers were different in alleged terrorism cases. The State party's definition of terrorism also remained unclear.

37. **Ms. Wedgwood** said that while she did not dispute the possible health benefits of electroshock therapy or the State party's reluctance to regulate treatment methods through legislation (mentioned in the reply to question 14), there was no harm in collecting and analysing data on the use of such therapy. The good faith ability of institutions to give appropriate treatment to patients, with which the State party did not wish to interfere, needed to be balanced with a desire to prevent abuse.

38. Turning to the issue of persons with disabilities, she said that concern remained that people with psychiatric problems were sometimes deprived of their liberty when outpatient care would suffice; persons with disabilities should be able to enjoy life to the fullest possible extent. Clarification as to the ability, or lack thereof, of persons with disabilities to bring private lawsuits against private institutions would also be appreciated.

39. **Mr. Bouzid** requested clarification of the exact meaning of honour-related crime (mentioned in the reply to question 7) and asked what measures the National Police Board had taken to prevent, detect and investigate such crimes.

40. *The meeting was suspended at 12.25 p.m. and resumed at 12.45 p.m.*

41. **Mr. Ehrenkrona** (Sweden) said that Sweden's reservations were not prohibited by the Covenant, nor were they incompatible with its object and purpose; thus, they were consistent with the provisions of the Vienna Convention on the Law of Treaties. Moreover, no State party had objected to Sweden's reservations.

42. **Ms. Kelt** (Sweden), referring to her Government's reservation to article 10, paragraph 3, said that juvenile offenders were very rarely incarcerated with adult offenders. Children under the age of 15 could not, by law, be imprisoned and young people between the ages of 15 and 21 were given prison sentences only for extremely serious crimes. The legislation through which Sweden had acceded to the Covenant provided for the practice only in exceptional circumstances where it allowed young offenders to remain in close proximity to their schools, families and communities.

43. There were only two circumstances under which a trial could be reopened after an individual had been tried and acquitted: where a member of the court or the prosecutor had committed the crime or where new evidence or circumstances had come to light since the original trial. The submission of new evidence did not lead automatically to a retrial; the prosecutor had to present valid reasons for not having invoked it during the original trial.

44. **Mr. Ehrenkrona** (Sweden), referring to his Government's reservation to article 20, paragraph 1, said that Sweden considered freedom of expression to be one of the most important rights. Under national law, there were very few cases in which that right could be restricted. War propaganda in Sweden had not been considered such a major problem as to warrant an exception to that rule. While the Covenant restricted freedom of expression in relation to war propaganda, States parties were not obliged to comply with that provision. Sweden did not, at present, plan to reconsider its position in respect of the reservation.

The meeting rose at 1 p.m.